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Attorney for Plaintiff

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BY DEPUTY

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
YELLOWSTONE COUNTY

ROBERT HOLY CROSS,) DV 19-0732
) Cause No.
)
Plaintiff,) Judge Ashley Harada
) Jessica T. Fehr
and)
CNH INDUSTRIAL AMERICA, LLC and) COMPLAINT AND DEMAND FOR JURY
TITAN MACHINERY, INC.) TRIAL
)
Defendant.)
)
)
)

Plaintiff, through counsel, submits his Complaint against Defendant as follows:

1. CNH Industrial America, LLC, a foreign corporation, designed, marketed, controlled, imported, sold, and directed manufacturing of the multi-purpose Case 590SN model backhoe ("the backhoe") and distributed it to equipment dealer Titan Machinery, located in Billings, Yellowstone county, Montana.

2. Robert Holy Cross, a resident of Stillwater County, Montana purchased the backhoe, new, from Titan Machinery in Billings, Montana in May of 2018, to use in his work as an independent contractor, and was delivered the backhoe on May 17, 2018.

3. On June 20, 2018, while using the backhoe, the heated-seat feature malfunctioned, and the Plaintiff suffered third degree burns as a result.

4. Under Montana Law, a manufacturer, wholesaler, distributor or seller of a product is liable for injury to a consumer caused by its product even if it exercised all possible care in the preparation and sale of that product and irrespective of whether the consumer purchased the product from or entered into a contractual relationship with the seller.

5. The backhoe was defective and dangerous to Holy Cross as those words are embodied in Section 402A of the Restatement (Second) of Torts and in Montana law, and such dangerous and defective condition was a substantial factor in causing damage to the Plaintiff.

6. The manner and purpose for which the Plaintiff was using the backhoe was within its intended and foreseeable purpose.

7. The injuries and damages suffered by Plaintiff were directly and proximately caused by the defective and dangerous condition of the heated-seat either by virtue of defective design, defective manufacture, or Defendant's failure to warn of the dangers of the product, for which Defendants are strictly liable to Plaintiff.

8. As a result of Defendant's negligence, Plaintiff was injured and has suffered and will suffer damages in an amount to be determined at trial.

9. Defendant's wrongful conduct in designing, manufacturing, marketing and/or distributing the backhoe as well as their failure to provide proper and/or adequate warnings are

of such character under Montana law that Plaintiff is entitled to an award of exemplary and punitive damages in an amount to be determined at trial.

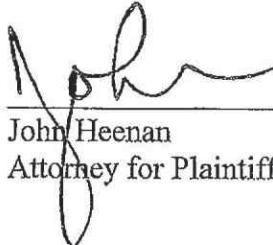
WHEREFORE, Plaintiff respectfully requests a judgment against Defendants as follows:

1. For compensatory damages caused to Plaintiff by Defendants in an amount to be proven at trial;
2. For punitive damages in an amount to be proven at trial;
3. For costs, interest, and pre-judgment interest as determined by the Court;
4. For any and all further legal or equitable relief as the Court deems proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury in this matter.

Dated this 17th day of June, 2019.


John Heenan
Attorney for Plaintiff